STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL EVERETT BELL, JR.,

Defendant-Appellant.

UNPUBLISHED
October 15, 1999

No. 207462
Recorder's Court
LC No. 95-004743

Before: Neff, P.J., and Murphy and J. B. Sullivan*, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of possession of 650 grams or more of cocaine, MCL 333.7403(2)(a)(i); MSA 14.15(7403)(2)(a)(i), and sentenced to life imprisonment. He now appeals of right. We affirm.

The trial court did not abuse its discretion in denying defendant's request to produce the unnamed informant who supplied the police with information that led to the issuance of the search warrant on March 24, 1995. *People v Poindexter*, 90 Mich App 599, 608; 282 NW2d 411 (1979). Although defendant alleged that the confidential informant did not exist, the trial court denied defendant's motion to produce the informant, after conducting an evidentiary hearing, upon being convinced that the affiant was being truthful regarding the existence of the informant. *People v Thomas*, 174 Mich App 411, 416-417; 436 NW2d 687 (1989). We find no error in this determination. We also note that all of the officers who testified at the evidentiary hearing indicated that Matthew Roberts was not the source of information that led to the issuance of the search warrant.

Second, the trial court did not err in concluding that suppression of evidence was not required because of certain misstatements in the affidavit used to secure the search warrant. As already concluded, the trial court rejected defendant's contention that the informant did not exist. Moreover, notwithstanding the trial court's determination that defendant had established the falsity of certain statements concerning controlled buys at four residences owned by defendant, defendant failed to make a sufficient showing that the statements involved deliberate falsehoods or were made in reckless

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

disregard for the truth. *People v Sawyer*, 215 Mich App 183, 194-195; 545 NW2d 6 (1996); *People v Price (On Remand)*, 91 Mich App 328, 330-331; 283 NW2d 736 (1979).

Next, the trial court did not err in rejecting defendant's request for relief on the basis that the officers exceeded the scope of the search warrant when they seized a safe in the basement of 1751 Webb. In this case, the affidavit accompanying the search warrant refers to the storage of "bulk amounts of cocaine in a safe in the basement of the above location." Accordingly, the trial court did not err in denying defendant's request for an evidentiary hearing because any defect in the warrant was cured by the affidavit, which is to be read together with the warrant. *People v Westra*, 445 Mich 284; 517 NW2d 734 (1994); *People v Hampton*, ___ Mich App ___; ___ NW2d ___ (Docket No. 209450, issued 8/13/99) slip op pp 4-6; *People v Hopkins*, 79 Mich App 723; 262 NW2d 675 (1977).

There is no merit to defendant's claim that he was arrested pursuant to an invalid arrest warrant. *People v Sloan*, 450 Mich 160, 168-169; 538 NW2d 380 (1995). After the execution of the search warrant on March 24, 1995, an arrest warrant for defendant and a search warrant for 1158 Calvert were both issued, relying in part upon information that had been used in supporting the previous search warrant, as well as information obtained during the search of 1751 Webb. Having concluded that the search warrants and the search of 1751 Webb were not invalid, we likewise conclude that the trial court did not err in finding that defendant was arrested pursuant to a valid warrant.

We find no merit to defendant's claim that reversal is required because of the exercise of multiple peremptory challenges. A review of the record clearly shows that the trial court did not require defense counsel to exercise multiple peremptory challenges. Rather, the prosecutor requested permission to exercise multiple peremptory challenges, and the trial court indicated its approval of this procedure. After the prosecutor exercised multiple peremptory challenges, defense counsel then exercised multiple challenges without objection. Further, defense counsel only exercised four of the allowed peremptory challenges, and expressed satisfaction with the jury. Under these circumstances, defendant waived any irregularity in the procedure for exercising peremptory challenges. *People v Russell*, 434 Mich 922; 456 NW2d 83 (1990), rev'g 182 Mich App 314; 451 NW2d 625 (1990), "for the reasons stated in the dissenting opinion of Judge Sawyer."

Defendant also claims that the trial court erred by allowing police officers to provide "expert" testimony regarding the narcotics trade. However, he did not preserve this issue with an appropriate objection at trial, and he has not shown any plain error affecting his substantial rights. *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999); *People v Grant*, 445 Mich 535, 552-553; 520 NW2d 123 (1994). We agree with plaintiff that, even if defendant had timely objected to the testimony in question, there is no basis for concluding that the trial court would have abused its discretion in admitting the testimony under MRE 702, given that there is sufficient testimony in the record to show that both officers were qualified as experts because of their training and experience. *People v Williams (After Remand)*, 198 Mich App 537, 541-542; 499 NW2d 404 (1993).

Defendant's claim that the court improperly admitted bad acts evidence contrary to MRE 404(b) also was not preserved with an appropriate objection at trial. Further, defendant has not

demonstrated any plain error in the admission of the challenged evidence, *Carines* and *Grant*, *supra*, given the close association of the evidence to the charged crime. *People v Delgado*, 404 Mich 76, 83; 273 NW2d 395 (1978); *People v Crowell*, 186 Mich App 505, 508; 465 NW2d 10 (1990) remanded 437 Mich 1004, 469 NW2d 305 (1991).

Defendant's claim of prosecutorial misconduct likewise was not preserved with an appropriate objection at trial. *People v Turner*, 213 Mich App 558, 575; 540 NW2d 728 (1995). Contrary to defendant's assertion, a review of the record fails to disclose that the prosecutor improperly stated at trial that the trial court had previously found the search warrant to be valid. Further, in remarking that defense counsel had skipped school and lied about it when she was a child, and lied again when she was the victim of a breaking and entering, the prosecutor was merely repeating what defense counsel had admitted earlier. Finally, examined in context, we do not view the remaining challenged remarks as involving an improper personal attack of defense counsel. *People v Kennebrew*, 220 Mich App 601, 607-608; 560 NW2d 354 (1996). Accordingly, we find no basis for appellate relief. *Carines*, *supra*.

Affirmed.

/s/ Janet T. Neff
/s/ William B. Murphy
/s/ Joseph B. Sullivan